

Remarks

The Examiner is thanked for the Office Action mailed 07/01/2003 (request for A 1-month extension to respond enclosed). Claims 6-20 of the present application are currently pending while claims 21-39 are withdrawn from consideration due to restriction.

The only grounds of rejection in the 07/01/2003 Office Action are both based on 35 U.S.C. 112, second paragraph (indefiniteness). On the question of what is required by 35 USC § 112, second paragraph, the Federal Circuit's discussion in Miles Laboratories Inc. v. Shandon Inc., 27 USPQ 1123 @ 1126 (Fed.Cir. 1993) is instructive:

“The test for definiteness is whether one skilled in the art would understand the bounds of the claim when read in light of the specification. *Orthokinetics*, 806 F.2d at 1576. If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, § 112 demands no more. *Hybritech*, 802 F.2d at 1385. The degree of precision necessary for adequate claims is a function of the nature of the subject matter. *Id.*”

Further, M.P.E.P. § 2173 outlines the same approach when considering the second paragraph of 35 USC § 112.

Turning now to the rejections, the examiner first rejected claims 6-7 on the basis that the language “the spatial order of the paths in the crosswise direction is not the same as their order in time”. The examiner stated that “Since the spatial order includes their order in time, it is unclear how the spatial order of the paths in the crosswise direction is not the same as their order in time.” and requested clarification. The present application makes it clear that the spatial order and the order in time are considered independently of one another (i.e. the spatial order of the paths is determined without consideration of their order in time). This is made clear, for example, on page 7, lines 3-6:

““Timewise” and “temporally” are used synonymously to indicate relationship in time. Thus, events which are temporally sequential follow one after the other in time, whereas items which are spatially sequential follow one after the

other in space.”

Furthermore, on page 10, line 21 to page 11, line 12 conventional scanning patterns of FIGS. 6 and 7 are discussed. As pointed out on page 11 with regard to such conventional scanning patterns:

“In both FIGS. 6 and 7, the timewise sequence of the linear scanned paths is the same as the spatial sequence. That is, if one moves across the lines 70 in the order in which they spatially occur (70a, 70b, 70c, and so on), this is the same as their timewise order.”

The application then goes on to describe on page 11, line 13 to page 13, line 5, embodiments of the invention in connection with FIGS. 8-10 and further embodiments, where the timewise sequence is not the same as the spatial sequence. As pointed out on page 11, lines 16-17:

“However, unlike FIGS. 6 and 7 the timewise sequence of the lines 70 in FIG. 8 (or FIGS. 9 or 10) is no longer the same as their spatial sequence.”

Thus, it is clear from the present application that contrary to the examiner’s assertion, the spatial order of the recited paths are considered independently of their order in time. Accordingly, one of skill in the art is at least “reasonably apprised” of the scope of claims 6, 7 as required by Miles Laboratories Inc. and M.P.E.P. § 2173 and this rejection should now be withdrawn.

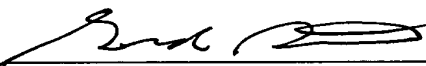
The examiner next rejected claims 8-20 as indefinite under 35 U.S.C. 112, second paragraph on the basis of the language “later illuminated path is closer to an earlier illuminated path than a path illuminated at a time between the later and earlier illuminated paths”. While it is believed that independent claims 8, 13 of this group were already clear, those claims 8 and 13 have now been amended to recite “and at least one later illuminated path is spatially closer to an earlier illuminated path than a path illuminated at a time between the later and earlier illuminated paths”. This amendment does not substantively change the claim but does make the relationship easier to follow. The examiner stated that “It is unclear whether or not there is an additional step to move illumination on each path to get different illuminating time”

and asked for clarification. However, the foregoing phrase of claim 8 is literally clear.

For example, consider the situation where there are three paths A, B, and C which were illuminated in that sequence in time (i.e. the order in time is illuminate A first, then B, then C). In this case if C is closer in space to A than is B (i.e. the spatial order is A, then C, then B) then "at least one later illuminated path [*path C*] is spatially closer to an earlier illuminated path [*path A*] than a path [*path B*] illuminated at a time between the later [*path C*] and earlier [*path A*] illuminated paths". A further example of the foregoing situation is described on page 11, lines 16-22 of the present application in connection with FIG. 8. Accordingly, one of skill in the art is at least "reasonably apprised" of the scope of claims in question as required by Miles Laboratories Inc. and M.P.E.P. § 2173 and this rejection should now be withdrawn.

In view of the above, it is believed that claims 6-20 are now in condition for allowance. If the Examiner is of the view that there are any outstanding issues which might be resolved by means of a telephone conference, she is invited to call Gordon Stewart at (650)485-2386.

Respectfully submitted,

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